

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

HILDA L. SOLIS

PLAINTIFF

v.

CIVIL ACTION NO.: 4:10-cv-77-DPJ-FKB

HERBERT C. BRUISTER, et al.

DEFENDANTS

JOEL D. RADER, et al.

PLAINTIFFS

v.

CIVIL ACTION NO.: 4:10-cv-95-HTW-LRA

HERBERT C. BRUISTER, et al.

DEFENDANTS

MOTION TO CONSOLIDATE

COMES NOW Plaintiffs, by and through counsel, and hereby move this Honorable Court pursuant to Rule 42(a) of the Federal Rules of Civil Procedure and Rule 42 of the Uniform Local Rules of the United States District Courts for the Northern and Southern Districts of Mississippi to consolidate these two actions in the action bearing the lower number as required by the Local Rules of this Court. In support thereof, Plaintiffs would state as follows:

1. There are two cases in the United States District Court for the Southern District of Mississippi which were both filed in the Eastern Division that are intricately related and involve numerous common questions of law and fact; *Hilda L. Solis v. Herbert C. Bruister, et al.*, Case No. 4:10-cv-77-DPJ-FKB (the "DOL Action") which was

filed first and *Joel D. Rader et al., v. Herbert C. Bruister, et al.*, Case No.: 4:10-cv-95-HTW-LRA (the “Rader Action”).

2. The DOL Action was filed first in this Court and bears the lowest docket number 4:10-cv-77 DPJ-FKB.

3. For purposes of efficiency and judicial economy and to avoid the risk of inconsistent determinations, these related matters should now be consolidated and assigned to the Judge presiding over the lowest numbered civil action. Rule 42(a) Federal Rules of Civil Procedure & Rule 42 Uniform Local Rules of the United States District Courts for the Northern and Southern Districts of Mississippi (2011); *see also*, *Robinson v. Roxy Investments, L.P.* 2008 WL 3165834 at p. 3 (Judge Wingate - S.D. Miss. 2008)(granting plaintiff’s motion to consolidate pursuant to Rule 42(a) of the Federal Rules of Civil Procedure and Rule 42.1 of the Uniform Local Rules to the action bearing the lower docket number lower).

4. The following cases which should now be consolidated are pending in the United States District Court for the Southern District of Mississippi, Eastern Division:

- *Hilda L. Solis v. Herbert Bruister, et al.*, Case No.4:10cv-77-DPJ-FKB (the "DOL Action"); and
- *Joel D. Radar, et al. v. Herbert C. Bruister, et al.*, Case No. 4:10-cv-95-HTW-LRA (the “Rader Action”).

5. The lowest numbered case is *Hilda L. Solis v. Herbert Bruister, et al.*, which is currently pending before United State District Court Judge Daniel P. Jordan and United States Magistrate Judge F. Keith Ball.

6. Each of the Complaints involve similar causes of action against three of

the same defendants with respect to ESOP transactions (five ESOP transactions in the Solis Action, the first two of which are subject to a pending motion to dismiss, and three ESOP transactions in the Rader Action, which are identical to the three transactions in the Solis Action which are not subject to a motion to dismiss) for breach of fiduciary duty and other allegations related to the Bruister & Associates Employee Stock Ownership Plan and Trust (the "Bruister ESOP").

7. Extensive settlement negotiations involving both cases have already been held before United States Magistrate Judge F. Keith Ball which were attended by all parties.

8. These overlapping and virtually identical matters need to be consolidated for the remaining discovery that needs to be completed and for trial in order to preserve judicial and litigation economy and avoid unnecessary cost and delay.

9. Furthermore, the assignment of these interrelated cases to more than one United States District Judge unnecessarily increases the risk of inconsistent determinations and outcomes within the same District and even within the Eastern Division.

10. Thus, consolidation would protect against such inconsistent determinations.

11. Furthermore, reassignment of the related cases to one United States District Judge would result in maximum efficiency and judicial economy to the Court, the witnesses, and the Parties.

12. Due to the nature of this motion, Plaintiffs respectfully request that the

necessity of a supporting Memorandum of Authorities be waived.

WHEREFORE, PREMISES CONSIDERED, for the reasons set forth above, Plaintiffs move this Court to grant their motion to consolidate *Joel D. Radar, et al. v. Herbert C. Bruister, et al.* Civil Action No.: 4:10-cv-95 HTW-LRA into the lower docket matter *Hilda L. Solis v. Herbert Bruister, et al.*; Civil Action No.: 4:10-cv-77 DPJ-FKB.

THIS, the 28th day of March 2012.

Respectfully submitted,

/s/Louis H. Watson, Jr.
LOUIS H. WATSON, JR. (MB# 9053)

OF COUNSEL:

LOUIS H. WATSON, JR., P.A.
628 N. State Street
Jackson, MS 39202
601-968-0000 Telephone
601-968-0010 Facsimile

CERTIFICATE OF SERVICE

I, Louis H. Watson, Jr., attorney for the Plaintiffs, do hereby certify that I have this day served via ECF filing a true and correct copy of the above and foregoing document to all counsel of record.

THIS, the 28th day of March 2012.

/s/ Louis H. Watson, Jr.
Louis H. Watson, Jr.